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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 DOE JEWISH USC FACULTY
13 MEMBER 2004 and DOE JEWISH
14 USC STUDENT 1987, Individually
15 And On Behalf of All Others Similarly
16 Situated,

17 Plaintiffs,

18 v.

19 Trustees of THE UNIVERSITY OF
20 SOUTHERN CALIFORNIA, a private
21 public benefit corporation; and DOES 1
22 through 100, inclusive,

23 Defendants.

Case No. 2:24-cv-05712 FLA (SSC)

**JOINT RULE 26(F) REPORT AND
DISCOVERY PLAN**

Date: November 8, 2024
Time: 1:30 p.m.
Place: Courtroom 6B
Judge: The Honorable
Fernando L. Aenlle-Rocha

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11 UNIVERSITY OF SOUTHERN CALIFORNIA

JOINT RULE 26(F) REPORT AND DISCOVERY PLAN

Plaintiffs Doe Jewish USC Faculty Member 2004 and Doe Jewish USC Student 1987 (“plaintiffs”) and Defendant University of Southern California (“USC”) (together, the “Parties”) hereby submit the following joint report in accordance with Federal Rule of Civil Procedure 26(f), the Court’s July 16, 2024 Order setting the scheduling conference (Dkt. 12), and the Court’s October 15, 2024 Order (Dkt. 54) resetting the scheduling conference for November 8, 2024.

On October 18, 2024, plaintiffs’ counsel, Bryan Christopher Castaneda, and Defendant’s counsel, Rasha Gerges Shields and Tyler Scott, participated in a telephonic meeting to discuss the matters specified in Federal Rules of Civil Procedure 16 and 26(f). The parties reached agreements on certain items as described below. Where the parties are not in agreement, the parties state their respective positions.

A. STATEMENT OF THE CASE

1. PLAINTIFF’S STATEMENT OF THE CASE

As more particularly set forth in Plaintiffs’ Memorandum supporting this Court’s Order to Show Cause, Motion for Remand and Motion for Leave to File Second Amended Complaint, this local, home state controversy alleges well-pleaded California state law antidiscrimination claims for the patent antisemitism, chaos and harm perpetrated against Jewish USC professors and students by Hamas-supporting terrorist mobs led by outside agitators who overtook the USC Campus and Town Square with the knowledge, consent, assistance and encouragement of USC. Plaintiffs further allege that Defendant not only knew and should have known about the harm, damage and offensive discriminatory conduct as alleged in the pleading, but aided, abetted, enabled and allowed the discrimination to occur.

Plaintiffs’ original Complaint against the University of Southern California (“Defendant” or “USC”) was filed in the Los Angeles County Superior Court by a “DOE” Jewish USC Professor who is and always was a citizen of the State of California. The only change made to the pleading before Defendant’s improper removal of the First

1 Amended Complaint (“FAC”) was to add a DOE Jewish USC Student, who is also a
2 citizen of the State of California.

3 Since USC is a California citizen, there is and never was “minimal diversity”
4 between the parties. Moreover, the only change Plaintiffs have made in the proposed
5 Second Amended Complaint (“SAC”) was and is to make clear that there is no minimal
6 “diversity” between the parties now or at the at the time the Complaint and FAC were
7 filed. Moreover, the “class size” at this point in time is only “two” class members and
8 no other parties or potential class members have come forward.

9 As a result, Plaintiffs contend that this Court is divested of subject matter
10 jurisdiction under CAFA or otherwise. Accordingly, Plaintiffs contend that the Court
11 should not be ruling on Defendant’s MTD or even scheduling the FRCP 26 Conference
12 at all until its subject jurisdiction is determined.

13 Plaintiffs further contend that Defendant’s counsel also removed this case in
14 violation of Rule 11 of the Federal Rules of Civil Procedure and Rule 5-100(A) of the
15 California Rules of Professional Conduct so that she and USC could obtain an unfair
16 advantage in this civil dispute by impliedly threatening to present criminal,
17 administrative or disciplinary charges by reporting in every single paper filed with this
18 Court since removal an unrelated and totally irrelevant June 27, 2021 suspension from
19 the Central District Bankruptcy Court and reciprocal suspension from the California
20 District Court pursuant to Local Rule 73.1 et seq. of Plaintiffs’ original lead attorney
21 Michael E. Reznick, SB No. 116126 (“Reznick”) (the “Suspension”).¹ Reznick’s
22 highly publicized Suspension, which Reznick and Plaintiffs have never concealed from
23 this Court, ends by its terms on June 27, 2025. Moreover, the Suspension is likely to be
24 reversed by the Ninth Circuit when it decides the appeal, which was submitted to the
25 Panel on the briefs on October 23, 2024.

26
27 ¹ Rule 5-100(A) provides that a member of the California Bar “shall not threaten to
28 present criminal, administrative, or disciplinary charges to obtain an advantage in a
civil dispute.”

1 More importantly, all filings to date have been signed and efiled by attorney
2 Bryan Christopher Castaneda, Bar No. 275095 (“Castaneda”). Castaneda is not
3 suspended from this Court or any other Court. Pursuant to Rule 11, Castaneda was and
4 is the attorney as a matter of law and in fact who is solely responsible for the handling
5 and management of this case in federal court. As a consequence, Defendant’s repeated
6 references to Reznick’s irrelevant Suspension (and asserted in every one of its filings
7 since removal (including this scheduling order) are apparently designed to smear
8 Reznick with an irrelevant character assassination and/or to threaten Castaneda with his
9 own disciplinary or administrative charges or Reznick with further and other disciplinary
10 or administrative charges. Defendant’s and Defendant’s counsel’s mention of the
11 Suspension is immaterial, impertinent and scandalous and violates Rule 11 and Rule 5-
12 100. Accordingly, Plaintiffs contend that any and all former references to the
13 Suspension or Reznick should be withdrawn by Defendant or stricken by this Court
14 pursuant to Rule 12(f) of the Federal Rules of Civil Procedure and that the Court should
15 enter an order barring any future references to the Suspension in pleadings. . It is wrong,
16 in bad faith, violates Rule 11 and Rule 5-100 and should not be countenanced by this
17 Court

18 As stated in Sections “O” and “P” of this Order, if the case is not remanded back
19 to the Los Angeles County Superior Court, Reznick expects to be reinstated to the
20 Central District Bankruptcy Court and Central District when the Suspension ends by its
21 terms on June 27, 2025, or much earlier if as expected the Ninth Circuit reverses what
22 Reznick believes is a bogus order that led to the Suspension. In either case, Reznick
23 will be trial counsel in this matter.

24 Finally, Plaintiffs continue to assert that this Court lacks subject matter
25 jurisdiction under CAFA or otherwise and thus believes that the Joint Rule 26(F) Report,
26 Discovery Plan and Scheduled Conference is premature since the Court’s OSC re
27 Remand and Plaintiffs’ Motion for Remand are still pending and have yet to be ruled on.
28 For the same reasons, Plaintiffs believe and contend for the record that the Court herein

1 should defer ruling on the Defendant’s MTD so that the Los Angeles County Superior
2 Court can make all dispositive rulings on a case that Plaintiffs contend was improperly
3 removed in the first place

4 **2. DEFENDANT’S STATEMENT OF THE CASE**

5 This is a narrow dispute about specific conduct allegedly experienced by two
6 individual plaintiffs in the context of campus protests concerning the war in Gaza. As
7 explained in USC’s pending motion to dismiss, that alleged conduct is not actionable, not
8 attributable to USC, or both. Dkt. 10. The Student Plaintiff claims that she read offensive
9 posters, and that a faculty member sent two notes to a department email list: one asked
10 for petition signatures; the other promoted a “Silent March.” Dkt. 1, Ex. A-7, First
11 Amended Complaint (“FAC”) ¶¶ 43–45, 50. The Faculty Plaintiff claims that campus
12 protesters asked her if she wanted to participate in a “bake sale for Palestine,” among
13 other questions. *Id.* ¶¶ 28–29. She also alleges to have been “spat on” by an unknown
14 “thug.” Dkt. 1, Ex. A-9 (*Errata* to FAC). To date, plaintiffs have failed to explain (a)
15 how the speech by others is actionable at all, and (b) how either that speech or the conduct
16 of a “thug” should give rise to liability against USC.

17 That is unsurprising. Plaintiffs’ allegations do not state a claim against USC under
18 California law. *See* Dkt. 10 (USC’s Motion to Dismiss). In addition, Defendant is an
19 academic institution constrained by the requirements of California’s Leonard Law. *Id.*
20 n.5. To the extent that plaintiffs request that USC suppress speech or viewpoints—or
21 that USC should be liable for the speech or viewpoints of others—that exceeds the scope
22 of relief that may be sought from a Court.

23 The complaint’s allegations concerning these two plaintiffs are thin and flimsy to
24 say the least, and the campus protests at USC were nothing like those seen at other
25 universities. Perhaps recognizing as much, plaintiffs aim most of the complaint at events
26 at other universities, gripes with the “ Hamas-supporting Biden Administration,” and the
27 purported machinations of “wealthy Democrat Party donors and radical Democrat Left
28 Wing political action groups” to somehow impute liability to USC. FAC ¶¶ 1, 4, 8. That
does not work. USC does not dictate foreign policy. And the views of Democratic Party

1 “donors” and “dark money” groups have nothing to do with the particular alleged conduct
2 experienced by these two plaintiffs. Plaintiffs’ theory of the case against USC is
3 fundamentally misguided.

4 Plaintiffs seek to litigate on behalf of a class of all Jewish USC faculty and
5 students. But as plaintiffs have already admitted, many putative class members were not
6 injured by the protests—and some *supported* the protests of which plaintiffs complain.
7 Plaintiffs’ class cannot proceed in light of such admissions. Dkt. 17, Reznick Declaration
8 ¶ 2.

9 For these and other reasons, Defendant denies that it is liable with respect to
10 plaintiffs’ claims for: (1) violation of California’s Bane Act, (2) violation of California’s
11 Unruh Act, (3) violation of California’s Ralph Act, (4) battery, (5) assault, (6) breach of
12 contract, (7) negligence, (8) declaration, and (9) injunction. Nor can plaintiffs pursue
13 any of these claims on behalf of a putative class.

14 **B. SUBJECT MATTER JURISDICTION**

15 **1. PLAINTIFFS’ POSITION**

16 See Section A.1. In addition, these issues have been fully briefed and to repeat
17 them here pending a decision by the Court would be redundant.

18 **2. DEFENDANT’S POSITION**

19 This Court has jurisdiction under the Class Action Fairness Act (“CAFA”). 28
20 U.S.C. §§ 1332(d)(2), (5); Dkts. 1, 18, 21, 26. In its opposition to plaintiffs’ remand
21 motion and in response to the Court’s Order to Show Cause, USC demonstrated: (1) the
22 putative class has more than 100 members; (2) there is minimal diversity between at
23 least one member of the putative class and USC; and (3) the amount-in-controversy
24 (“AIC”) exceeds CAFA’s \$5 million floor. *See* Dkts. 18, 21, 26; *see also* Dkt. 1
25 (removal notice).

26 Plaintiffs have moved to amend their complaint again for the sole and express
27 purpose of “negating” minimal diversity and “divesting” this Court of CAFA subject
28 matter jurisdiction. Dkt. 51, at 1–2. But controlling caselaw forbids plaintiffs from

1 amending their class definition after removal to divest the Court of subject matter
2 jurisdiction. As USC has explained, ““citizenship of the class for purposes of minimal
3 diversity [under CAFA] must be determined as of the operative complaint at the date of
4 removal.”” Dkt. 51, at 1–2 (quoting *Broadway Grill, Inc. v. Visa Inc.*, 856 F.3d 1274,
5 1279 (9th Cir. 2017)). The exact maneuver plaintiffs try here has been specifically
6 rejected by the Ninth Circuit. *Id.*

7 The responses to the Court’s Order to Show Cause, plaintiffs’ remand motion, and
8 plaintiffs’ motion to amend are all under submission.

9 **C. LEGAL ISSUES**

10 **1. PLAINTIFFS’ POSITION**

11 Plaintiffs respectfully submit that they cannot provide any meaningful discussion
12 about the legal issues until the Court issues a ruling regarding subject matter jurisdiction
13 and if necessary, Defendant's MTD.

14 **2. DEFENDANT’S POSITION**

15 Three key legal issues are already pending before this Court:

16 ***CAFA Jurisdiction.*** Plaintiffs have moved to remand the case back to state Court
17 for lack of subject matter jurisdiction under CAFA. Dkt. 25. But the case is properly in
18 this Court for the reasons articulated in USC’s responses to plaintiffs’ remand motion
19 and the Court’s Order to Show Cause. *See* Dkts. 18, 26. USC has shown that CAFA’s
20 jurisdictional requirements are met: (1) a putative class with more than 100 members;
21 (2) minimal diversity between at least one member of the putative class and USC; and
22 (3) an AIC exceeding CAFA’s \$5 million floor. *See* 28 U.S.C. §§ 1332(d)(2), (5); Dkts.
23 1, 18, 21, 26. Further, as stated above, plaintiffs cannot amend their class definition after
24 removal to divest the Court of CAFA subject matter jurisdiction. Dkt. 51.

25 ***Plaintiffs’ failure to state a claim.*** USC has moved to dismiss the case on the
26 merits under Rule 12(b)(6). Dkt. 10. Plaintiffs have failed to state a claim for the
27 numerous reasons identified in USC’s motion to dismiss. *Id.* at 7–18. Plaintiffs agree,
28 for instance, that to state a claim under the Bane, Ralph, or Unruh Act, they must

1 plausibly allege that USC specifically intended to harm or discriminate against plaintiffs
2 on the basis of religion. *See* Dkt. 52, at 4–5. But as USC has shown, plaintiffs’
3 conclusory allegations do not come close to plausibly meeting this standard. Plaintiffs
4 offer no well-pled allegations showing that USC intended for any of the unnamed
5 protestors to say anything specific *to these two plaintiffs* or do anything specific to *these*
6 *two plaintiffs*. *Id.* at 5. Plaintiffs do not allege that USC knew about the few specific
7 incidents described in the complaint (or even that the protestors knew plaintiffs are
8 Jewish). *Id.* In addition, plaintiffs did not even attempt to respond to numerous
9 dispositive arguments by USC. Among other arguments, plaintiffs did not respond to
10 USC’s argument that the Faculty Plaintiff’s claims are barred by workers’ compensation
11 exclusivity; that the plaintiffs have failed to allege a contract; and that the Student
12 Plaintiff has not shown the kind of special relationship or circumstances that could give
13 rise to a claim for negligent infliction of emotional distress under California law. *See*
14 *id.* at 6–7.

15 For related reasons, plaintiffs’ claims should be dismissed with prejudice and their
16 motion for leave to amend their complaint should be denied. Plaintiffs’ proposed
17 amendments go exclusively to their class definitions, not the events that purportedly give
18 rise to liability for USC. Dkt. 51, at 2, 5–6, 10–11. Plaintiffs have not shown how any
19 amendment would fix the numerous deficiencies that USC has identified in their
20 complaint. *Id.* It is clear that plaintiffs have no further factual allegations to offer.

21 ***The adequacy of plaintiffs’ class allegations.*** Plaintiffs’ class allegations are
22 fatally inadequate and should be stricken. Dkt. 10 at 18–21. Plaintiffs have already
23 admitted that many putative class members were not injured by the protests, and some
24 affirmatively supported the protests. Dkt. 17, Reznick Declaration ¶ 2. And plaintiffs
25 have similarly failed to respond to USC’s class certification arguments. Dkt. 52, at 7–
26 8. That dooms class certification, among other issues. Dkts. 10, 51.

27 Additional legal issues may include the following:

28 ***Litigation by pseudonym.*** Parties must typically use their real names in

1 accordance with the public’s right to open courts and the right of private individuals to
2 confront their accusers. *Doe v. Kamehameha Sch./Bernice Pauahi Bishop Est.*, 596 F.3d
3 1036, 1042 (9th Cir. 2010). Plaintiffs must seek leave to proceed pseudonymously, but
4 have not done so to date. *See, e.g., 4 Exotic Dancers v. Spearmint Rhino*, No. CV 08-
5 4038ABCSSX, 2009 WL 250054, at *1-2 & n.2 (C.D. Cal. Jan. 29, 2009) (noting the
6 Court’s “obligation to examine the issue *sua sponte*”). Plaintiffs have disclosed their
7 identities privately to USC. USC will evaluate its position on this issue on an ongoing
8 basis as it receives additional information from plaintiffs.

9 ***Class certification and associated discovery.*** Because plaintiffs have brought this
10 case as representatives of a putative class, the Court will need to resolve a motion for
11 class certification, if one is made by plaintiffs. USC will oppose class certification. It
12 is USC’s position that plaintiffs’ admissions and pleadings already demonstrate that their
13 class does not meet Rule 23’s requirements (Dkt. 10); no class discovery is necessary or
14 warranted.

15 USC further notes that it has not filed its answer yet in this case. It continues to
16 investigate the potential legal issues and its defenses in this action, including the
17 applicability of California’s Leonard Law as a defense. USC expressly reserves its right
18 to raise additional legal issues in its answer or at the appropriate time during litigation.

19 **D. PARTIES AND EVIDENCE**

20 At this time, the Parties do not anticipate the addition of any other parties.

21 **1. PLAINTIFFS’ POSITION ON ADDITIONAL ISSUES**

22 Plaintiffs contend that it is premature to discuss additional issues without a
23 decision on the Court’s subject matter jurisdiction or lack thereof.

24 **2. DEFENDANT’S POSITION ON ADDITIONAL ISSUES**

25 ***Corporate statement.*** USC is a private, not-for-profit public benefit corporation
26 organized and existing under the laws of the State of California. USC does not have a
27 parent corporation, and no publicly held company owns 10% or more of its stock.

28 ***Percipient witnesses.*** This dispute will turn on the specific allegations made by

1 these specific plaintiffs. USC is not presently aware of any percipient witnesses to the
2 specific events that plaintiffs allege they personally experienced. Plaintiffs have
3 disclosed their identities to USC, but they have offered no further details about their
4 experiences other than the few allegations in the complaint. The Student Plaintiff alleges
5 that one of her professors sent emails to her department. She also describes her
6 interactions with a friend. Those individuals may have relevant and discoverable
7 information. USC continues to investigate plaintiffs' allegations and will provide
8 additional information about potential witnesses as required by Rule 26(a)(1) on the
9 timeline jointly proposed by the Parties (or as otherwise ordered by this Court).

10 Plaintiffs' broader assertions about the presidential administration, Democratic
11 donors and dark money groups, the views of other students, and similar allegations have
12 no relevance to the specific conduct that supposedly gives rise to their claims. Nor do
13 plaintiffs allege that they were personally affected by an encampment at USC.
14 Discovery should be targeted in the first instance at the specific conduct alleged to have
15 affected these plaintiffs. That plaintiffs have included broader allegations entirely
16 untethered to these plaintiffs and going all the way up to the White House is not a license
17 to engage in a fishing expedition.

18 **E. DAMAGES**

19 **1. PLAINTIFFS' POSITION**

20 The gravamen of Plaintiffs' FAC and SAC is for injunctive relief but some of the
21 state court discrimination statutes under which such relief is sought also provide for
22 actual damages or damages up to \$400 per day. Plaintiffs contend that this issue is
23 premature to determine without rulings from the Court.

24 **2. DEFENDANT'S POSITION**

25 USC denies that it has any liability in this matter whatsoever. Plaintiffs are
26 entitled to zero damages.²

27
28 ² This is a separate question from CAFA's \$5 million amount-in-controversy requirement, which refers to "possible" liability, not probable liability. For the reasons

1 **F. INSURANCE**

2 USC states that the following insurance carriers have been put on notice:

- 3 1. Berkshire Hathaway Specialty Insurance
4 2. National Fire & Marine Insurance Company

5 Neither insurer has taken a coverage position at this time.

6 **G. MOTIONS**

7 **1. PLAINTIFFS' POSITION**

8 Plaintiffs intend to file a motion for fees and costs if the case is remanded for
9 improper removal and depending on the Court's rulings, a motion pursuant to Rule 11.

10 **2. DEFENDANT'S POSITION**

11 The CAFA jurisdictional issues are fully briefed and pending—no additional
12 motion practice on jurisdiction or venue is warranted. See Dkt. 28 (taking remand
13 motion under submission). USC's motion to dismiss (Dkt. 10) is fully briefed and
14 pending. Plaintiffs' motion for leave to file a Second Amended Complaint is also
15 pending (Dkt. 49), and plaintiffs have stated that they will attempt to file a Third
16 Amended Complaint if the operative complaint is dismissed (Dkt. 39, at 6–7). For the
17 reasons explained in USC's opposition for leave to amend (Dkt. 51, at 2, 10–11) and
18 reply brief in support of its motion to dismiss (Dkt. 52, at 8–10), the Court should deny
19 leave to amend and further amendments by plaintiffs would be futile.

20 If leave to amend is granted, USC will likely file another motion to dismiss under
21 Federal Rule of Civil Procedure 12(b)(6).

22 USC addresses plaintiffs' threatened Rule 11 motion in the "Other Issues" section
23 below.

24
25
26
27 explained in USC's response to the Court's Order to Show Cause, as well as its
28 opposition to plaintiffs' remand motion, the amount at stake in this case is greater than
\$5 million. *E.g.*, Dkt. 18.

1 **H. DISPOSITIVE MOTIONS**

2 **1. PLAINTIFFS' POSITION**

3 Plaintiffs' legal position on these issues has been fully briefed and the parties are
4 waiting for decisions and rulings from the Court in that regard.

5 **2. DEFENDANT'S POSITION**

6 ***Motion to dismiss.*** All of plaintiffs' claims should be dismissed with prejudice at
7 the 12(b)(6) stage. Plaintiffs have failed to state a claim for the numerous reasons
8 identified in USC's motion to dismiss. Dkt. 10 at 7-18. None of plaintiffs' allegations
9 come close to establishing the elements of plaintiffs' civil rights claims, which require
10 USC to intentionally violate their expressly protected rights (Bane Act), and to do so
11 based on plaintiffs' religious identities (Unruh and Ralph Acts). And none of plaintiffs'
12 allegations show that USC specifically intended to further any tortious conduct against
13 plaintiffs, thus dooming plaintiffs' aiding-and-abetting theory. Moreover, the Faculty
14 Plaintiff's tort claims are barred by California's workers compensation laws. And the
15 Student Plaintiff fails to allege basic elements of her battery (no touching), assault (no
16 reasonable fear of contact), and contract claims (no contract, no breach, no damages).

17 Plaintiffs failed to respond to most of USC's dispositive arguments. *See* Dkt. 39.
18 USC showed, for instance, that the Faculty Plaintiff's tort claims are barred by workers'
19 compensation exclusivity under California law. Dkt. 10, at 15–16. Plaintiffs offer no
20 response, thus “conceding the issue.” *Young v. City of Menifee*, No. EDCV 17-1630
21 (JGB) (SPx), 2023 WL 11053618, at *25 (C.D. Cal. 2023). USC showed, as another
22 example, that the Student Plaintiff's allegations are grossly insufficient to state a claim
23 for negligent infliction of emotional distress. Dkt. 10, at 16–17. Plaintiffs offer no
24 response, and thus “concede the argument.” *ERE Ventures, LLC v. David Evans &*
25 *Assocs.*, No. CV 17-1561-R, 2018 WL 6118428, at *7 (C.D. Cal. 2018), *aff'd* 2023 WL
26 4261353 (9th Cir. 2023). In fact, plaintiffs failed to respond to dispositive arguments as
27 to each of their claims.

28 ***Motion for summary judgment.*** Should plaintiffs' claims survive the 12(b)(6)

stage, USC anticipates filing a motion for summary judgment on all of plaintiffs' individual claims at the close of Phase 1 discovery, discussed below.

I. MANUAL FOR COMPLEX LITIGATION

The Parties agree this is not a complex case and no procedures from the Manual For Complex Litigation are necessary here other than the procedures agreed upon by the Parties, discussed herein.

J. STATUS OF DISCOVERY

No discovery requests have been served. Plaintiffs have disclosed their identities to defendant.

K. DISCOVERY PLAN (RULE 26(f))

The Parties have reached a number of agreements, reflected here. Where the Parties have remaining differences, their positions are noted below.

Initial disclosures. The Parties have stipulated to a short extension for the exchange of initial disclosures to Friday, November 15, 2024.

Discoverable evidence. The Parties do not anticipate any issues or problems with respect to preserving discoverable evidence that is currently in their respective possession, custody, and/or control.

Phased Discovery and Schedule. The Parties agree that a “just, speedy, and inexpensive determination” of this action will be promoted by the bifurcation of discovery into two phases. F.R.C.P. 1. The Parties propose the modified Schedule of Pretrial & Trial Dates worksheet discussed *infra*.

Phase One: The Parties agree Phase One of discovery should focus on the two individual plaintiffs' specific allegations and USC's purported liability to the two individual plaintiffs. This allows for early motions for summary judgment, benefiting both parties. *Wright v. Schock*, 742 F.2d 541 (9th Cir. 1984) (“early resolution of a motion for summary judgment seems likely to protect both the parties and the court from needless and costly further litigation”). Phase One should last until the Court rules on those motions for summary judgment. *Tseng v. Nordstrom, Inc.*, No. CV 11-8471-CAS

1 MRWX, 2013 WL 5486768, at *2 (C.D. Cal. Mar. 25, 2013) (“As the Ninth Circuit has
2 held, a district court may consider a motion for summary judgment before a motion for
3 class certification”).

4 Phase Two: If necessary, Phase Two will extend discovery to issues of class
5 certification and class merits. *Aldapa v. Fowler Packing Co. Inc.*, 310 F.R.D. 583, 589
6 (E.D. Cal. 2015) (“bifurcated discovery would be more than sufficient to ensure the just,
7 speedy, and efficient determination of this action”).

8 **1. PLAINTIFFS’ POSITION ON ADDITIONAL ISSUES**

9 While it is too early to determine what additional issues may arise in this case
10 given the absence of a decision yet on subject matter jurisdiction, Plaintiffs generally
11 agree with Defendant’s position on additional issues.

12 **2. DEFENDANT’S POSITION ON ADDITIONAL ISSUES**

13 *Nature of discovery*. At the appropriate time, USC confirms that it intends to
14 serve formal written discovery in the form of requests for production of documents,
15 special interrogatories, form interrogatories, and requests for admissions. Defendant
16 further intends to take the deposition of plaintiffs in relation to their claims. USC may
17 seek to depose other relevant witnesses as they are identified in the course of discovery.

18 *Protective order*. USC will request this Court to enter a protective order to
19 comply with educational privacy laws and guarantee the confidentiality of sensitive
20 documents. At the appropriate time, USC intends to negotiate a proposed order with
21 plaintiffs.

22 *Reservations*. USC does not presently propose any changes to the normal limits
23 on discovery but reserves all rights to seek protective orders and limit discovery as
24 appropriate. USC also reserves its right to raise issues regarding the preservation of
25 discoverable evidence in accordance with applicable court procedures in the event such
26 issues arise.

27 **L. DISCOVERY CUT-OFF**

28 The parties agree to a fact discovery cut-off of March 21, 2025 for Phase 1.

1 **M. EXPERT DISCOVERY**

2 Please refer to the schedule worksheet below for a more detailed timeline for
3 potential expert discovery.

4 **1. PLAINTIFFS' POSITION**

5 While it is too early to determine what expert discovery is needed in this case
6 given the absence of a decision yet on subject matter jurisdiction, Plaintiffs generally
7 agree with Defendant's position on additional issues.

8 **2. DEFENDANT'S POSITION**

9 Expert discovery may be necessary in Phase One. USC would likely serve expert
10 reports rebutting any expert testimony offered in Phase One. USC's current position is
11 that expert discovery is more likely in Phase Two of the litigation (class certification and
12 class merits).

13 **N. SETTLEMENT CONFERENCE / ALTERNATIVE DISPUTE**
14 **RESOLUTION**

15 *ADR selection.* The Parties agree to have the required ADR proceeding
16 conducted by a Magistrate Judge.

17 *Previous settlement discussions.* The Parties have not discussed a formal
18 settlement offer. During the Parties' Rule 26(f) conference, plaintiffs stated they intend
19 to make a proposal to USC. Plaintiffs have yet to articulate a specific demand.

20 **O. TRIAL ESTIMATE**

21 **1. PLAINTIFFS' POSITION**

22 Plaintiffs respectfully submit that they cannot provide any meaningful discussion
23 about the legal issues until the Court issues a ruling regarding subject matter jurisdiction
24 and if necessary, Defendant's MTD.

25 **2. DEFENDANT'S POSITION**

26 This is a narrow dispute predicated on specific instances of conduct alleged by the
27 two individual plaintiffs. On that understanding, USC has no basis on which to suggest
28 that a trial may last beyond four days. While USC is still investigating plaintiffs' claims

and its potential defenses, it expects to call 3-5 witnesses at trial. USC reserves the right to revise its estimates as the case proceeds and additional details are learned in discovery.

Should the Court permit plaintiffs' wide-ranging class allegations to reach trial, such a dispute may extend beyond four days. USC has no reliable basis by which to estimate how long it would take to try plaintiffs' speculative class claims at this time.

P. TRIAL COUNSEL

Plaintiffs anticipate that Michael E. Reznick, whose suspension ends by its terms on June 27, 2025 or earlier if the Ninth Circuit reverses the order on the appeal submitted on the briefs on October 23, 2024, will serve as lead trial counsel on their behalf.

USC anticipates that Rasha Gerges Shields will serve as lead trial counsel on its behalf.

Q. INDEPENDENT EXPERT OR MASTER

The Parties agree that an independent expert or master is unnecessary in this case.

R. SCHEDULE WORKSHEET

The Parties jointly propose the schedule below. Because this is a putative class case and consistent with note 2 to the Court's Scheduling Order, the Parties have varied from the pretrial dates worksheet and suggested the additional deadlines noted below.

MATTER	JOINT REQUESTED DATE	TIME
TRIAL []Court [X] Jury Duration Estimate: 4 days	March 3, 2026 (Tuesday)	8:30 a.m.
FINAL PRETRIAL CONFERENCE ("FPTC")	February 13, 2026 (Friday)	3:00 p.m.

MATTER	JOINT REQUESTED DATE
Exchange of Initial Disclosures	November 15, 2024
Last Date to Hear Amended Pleadings and Addition of Parties Cut-Off	November 29, 2024

1	Phase 1 Fact Discovery Cut-Off (includes hearing of discovery motions)	March 21, 2025
2		
3	Phase 1 Expert Disclosures	April 4, 2025
4	Phase 1 Rebuttal Expert Disclosures	May 16, 2025
5		
6	Phase 1 Expert Discovery cutoff	June 16, 2025
7	Phase 1 Motion Cut-Off (filing deadline), including motions for summary judgment	July 16, 2025
8		
9	Phase 2 Fact Discovery Cut-Off	90 days after the Court decides USC's motion for summary judgment
10		
11	Phase 2 Expert Disclosures	Phase 2 Fact Discovery Cut-Off + 30 days
12		
13	Phase 2 Rebuttal Expert Disclosures	Phase 2 Fact Discovery Cut-Off + 75 days
14		
15	Phase 2 Expert Discovery cutoff	Phase 2 Fact Discovery Cut-Off + 105 days
16		
17	Phase 2 Motion Cut-Off (filing deadline)	Phase 2 Fact Discovery Cut-Off + 135 days
18	Settlement Conf. Completion Date (Magistrate Judge)	January 9, 2026
19	Trial Filings (first round) in Limine Filing Deadline	January 16, 2026
20	<ul style="list-style-type: none"> • Motions in Limine 	
21	<ul style="list-style-type: none"> • Memoranda of Contentions of Fact and Law 	
22		
23	<ul style="list-style-type: none"> • Witness Lists 	
24	<ul style="list-style-type: none"> • Joint Exhibit List 	
25	<ul style="list-style-type: none"> • Joint Status Report Regarding Settlement 	
26	Trial Filings (second round)	January 30, 2026
27	<ul style="list-style-type: none"> • Oppositions to Motions in Limine 	
28		

- | | |
|---|--|
| <ul style="list-style-type: none"> • Joint Proposed Final Pretrial Conference Order • Joint Agreed Upon Proposed Jury Instructions • Disputed Proposed Jury Instructions • Joint Proposed Verdict Forms • Joint Proposed Statement of the Case • Proposed Voir Dire Questions | |
|---|--|

S. OTHER ISSUES

1. PLAINTIFFS' POSITION

Plaintiffs respectfully submit that they cannot provide any meaningful discussion about the legal issues until the Court issues a ruling regarding subject matter jurisdiction and if necessary, Defendant's MTD.

2. DEFENDANT'S POSITION

Michael Reznick filed this lawsuit in state court on behalf of plaintiffs. However, Mr. Reznick has been suspended from practice in this Court (*see* Dkt 51, at 4 n.1), but nevertheless asserted in a sworn declaration that he is “counsel of record for Plaintiffs” and that he was “solely responsible for filing a late opposition to Defendant’s motion to dismiss as a result of mis-calendaring the due date...” *See* Dkt. 31, at 3 (Sept. 10, 2024). During the Parties’ October 18, 2024 meet and confer, plaintiffs’ counsel Bryan Castaneda stated that he is representing plaintiffs and that Mr. Reznick is not representing plaintiffs in this action before this Court.

For the first time, plaintiffs have suggested in this joint report that removing the case to federal court and subsequent mention of Mr. Reznick’s suspension somehow violates Rule 11. *Supra* part A-1. That suggestion is baseless. CAFA grants USC a

1 right to litigate in a federal forum; Congress did not require plaintiffs’ counsel to be
2 admitted (or not suspended) to practice in federal court in order to remove a case. *See*
3 28 U.S.C. §§ 1332(d)(2), (5). Such a requirement would be absurd, and it would allow
4 for the bar admissions and conduct of a plaintiff’s counsel to control a defendant’s right
5 to litigate in a federal forum.

6 Nor does Rule 11 require a counterparty to remain silent when it suspects that the
7 conduct of an opposing attorney may be in violation of a court order. To the contrary,
8 the Model Rules of Professional Conduct *encourage* a party to report potential
9 misconduct to the relevant authority (here, this Court) when it learns of questionable
10 professional behavior. Model Rule 8.3(a); *accord* Cal. R. Prof. Conduct 8.3(a)–(b). Mr.
11 Reznick’s suspension was not at issue until he submitted a declaration claiming to be
12 “counsel of record” and “solely responsible” for a late pleading in this Court. Dkt. 31,
13 at 3. Only then did USC raise the issue of his suspension from practice in this Court.
14 Dkt. 32, at 5 (arguing that “[a] mistake by counsel who is ‘solely responsible’ for
15 preparing a brief but who has been suspended from practice before this Court cannot be
16 ‘good cause’” to file late). Mr. Reznick’s own representation to the Court made his
17 suspension pertinent and material. In addition, USC noted Mr. Reznick’s suspension in
18 discussing plaintiffs’ failure to comply with Local Rule 7-3. *See* Dkt. 51, at 3–4 n.1, 7–
19 8. In that instance, plaintiffs’ attorneys sent inconsistent messages on whether they
20 would comply with USC’s meet-and-confer request, and USC required clarity on who
21 was representing the plaintiffs. Plaintiffs fail to explain how it is “scandalous” to refer
22 to Mr. Reznick’s already “highly publicized” suspension, which he has otherwise never
23 “concealed from this Court” (yet never disclosed, until this filing). *Supra* part A-1.

24 Counsel’s suggestion that USC has violated California Rule of Professional
25 Conduct 3.10 (formerly Rule 5-100) is frivolous. *Supra* part A-1. Counsel points to no
26 improper “threat” to obtain an advantage in litigation—because none has been made.
27 Rule 3.10(a). As the comments make clear, that Rule does not preclude a lawyer from
28 stating her “good faith” belief “that the conduct of the opposing lawyer or party violates”

1 applicable rules (and potentially reporting it). *Id.* cmt. 1. The relevant line is between
2 a good faith belief and a “threat” to further some improper motive. *See id.* (In contrast,
3 “a lawyer could not state or imply that a criminal or administrative action will be pursued
4 unless the opposing party agrees to settle”). It is absurd—and would be itself
5 sanctionable—to suggest that USC somehow issued an improperly veiled “threat” to
6 plaintiffs’ counsel (*supra* part A-1) by noting his own declaration claiming to be solely
7 responsible for pleadings in a court where he is suspended from practice. Indeed, the
8 Rules expressly provide for raising such professional concerns to the Court. *See* Model
9 Rule 8.3; Cal. Prof. Conduct Rule 8.3(a)–(b). Nothing requires USC to silently
10 acquiesce to a potential violation of an order of this Court.

11
12 Dated: October 25, 2024

13 LAW OFFICES OF MICHAEL E.
14 REZNICK

JONES DAY

15 By: /s/ Bryan Christopher Castaneda
16 Bryan Christopher Castaneda

By: /s/ Rasha Geroges Shields
Rasha Geroges Shields

17 Attorney for Plaintiffs
18 DOE JEWISH USC FACULTY
MEMBER 2004 and DOE JEWISH
19 USC STUDENT 1987

Attorney for Defendant
UNIVERSITY OF SOUTHERN
CALIFORNIA

20 **ATTESTATION**

21 Pursuant to Civ. L.R. 5-4.3.4, the undersigned attests that all other signatories
22 listed, and on whose behalf this filing is submitted, concur in this filing’s content and
23 have authorized this filing.

24
25 Dated: October 25, 2024

JONES DAY

26
27 By: /s/ Rasha Geroges Shields
28 Rasha Geroges Shields